

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

TERRY BROWN,	:	APPEAL NO. C-150727
	:	TRIAL NO. A-1505170
Plaintiff-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
CINCINNATI POLICE DEPARTMENT,	:	
CITY OF CINCINNATI,	:	
CINCINNATI EMERGENCY	:	
COMMUNICATION CENTER ECC,	:	
	:	
HAMILTON COUNTY SHERIFF'S	:	
OFFICE,	:	
	:	
and	:	
SHERIFF JIM NEIL	:	
	:	
Defendants-Appellees.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Plaintiff-appellant Terry Brown filed an action seeking a “writ of mandamus and/or prohibition” based on allegations that members of the Cincinnati Police Department and the Hamilton County Sheriff’s Office had been harassing him, following him, tracking him electronically, and causing property damage to his vehicle. Brown asked that the writ compel the police department and the sheriff’s office to investigate his claims of harassment and disclose any court orders relating to his being “followed/stalked/GPS Track[ed],” and compel 911 operators with the Cincinnati Emergency Communication Center to send a supervisor whenever he makes such calls and follow up if a supervisor does respond. Defendants-appellees Cincinnati Police Department, City of Cincinnati, Cincinnati Emergency Center ECC,

Hamilton County Sheriff's Office, and Sheriff Jim Neil filed motions to dismiss, which the trial court granted.

In two assignments of error, which are argued together, Brown claims that the trial court erred in granting the motions to dismiss. For a court to dismiss a relator's petition for a writ of mandamus, it must appear beyond doubt from the complaint that the relator can prove no set of facts entitling it to recovery. *State ex rel. Hilltop Basic Res., Inc. v. City of Cincinnati*, 166 Ohio App.3d 171, 2005-Ohio-6817, 849 N.E.2d 1064, ¶ 10 (1st Dist.), citing *O'Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242, 327 N.E.2d 753 (1975), syllabus. To be entitled to a writ of mandamus, Brown must establish a clear legal right to his claimed relief, a corresponding legal duty on the part of the appellees to perform the actions requested, and the lack of an adequate remedy in the ordinary course of the law. *Id.* at ¶ 6, citing *State ex rel. Savage v. Caltrider*, 100 Ohio St.3d 363, 2003-Ohio-6806, 800 N.E.2d 358, ¶ 8.

Granting a writ to compel an investigation and a supervisor's response would have required the appellees to provide individualized law-enforcement responses to his calls for service. The Ohio Supreme Court has held that "a municipality's duty to provide police protection is ordinarily one owed to the public at large and not to any particular individual or class of individuals." *Sawicki v. Ottawa Hills*, 37 Ohio St.3d 222, 231, 525 N.E.2d 468 (1988), quoting *Cuffy v. City of New York*, 69 N.Y.2d 255, 260, 505 N.E.2d 937 (1987). The court noted that "the underlying principle that no more than a general duty to the public was intended by the General Assembly's empowering legislation has been established for some time." *Id.* at 230. Since neither the city nor the county owes more than a general duty to the public, Brown is not entitled to individualized police protection or a specialized response to his individual calls for service.

Brown also sought information from any ongoing investigations relating to him. Appellees denied engaging in any such investigations, and as a result, no such records existed. Brown presented no additional information to support his claims, other than his assertions that the investigations were ongoing. This is insufficient. But even if they existed, records of an ongoing criminal investigation are not available to the public. *See* R.C. 149.43(A)(2).

Brown thus failed to establish a clear legal right to his claimed relief or a corresponding legal duty on the part of the appellees to perform the actions requested. Therefore, the trial court properly granted the appellees' motions to dismiss. We overrule Brown's two assignments of error, and affirm the judgment of the trial court.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., DEWINE and MOCK, JJ.

To the clerk:

Enter upon the journal on July 8, 2016

per order of the court _____.

Presiding Judge